

10-07-09

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PTO/SB/61 (01-09)

Approved for use through 02/28/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

336-9901U

First Named Inventor: Ronald K. YamamotoArt Unit: 3763Application Number: 09/735,408Examiner: Laura A. BouchelleFiled: 12/11/2000Title: TREATMENT OF OCULAR DISEASE

Attention: Office of Petitions
Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
 Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- Small entity -- fee \$ 270.00 (37 CFR 1.17(l)). Applicant claims small entity status.
 See 37 CFR 1.27.
- Other than small entity -- fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

- A The reply and/or fee to the above-noted Office action in the form of
petition for extension of time and divisional application (identify the type of reply):

- has been filed previously on _____.
- is enclosed herewith.

10/08/2009 CHUYEN2 00000023 09735408

- B The issue fee of \$ _____ 270.00 OP

- has been filed previously on _____.
- is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

October 5, 2009

Date

CAROL D. TITUS

Typed or printed name

38436

Registration Number, if applicable

3900 Newpark Mall Road, Suite 317

Address

(510) 742-7417

Telephone Number

Newark, CA 94560

Address

Enclosure

- Fee Payment
- Reply
- Terminal Disclaimer Form
- Additional sheets containing statements establishing unavoidable delay
-

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

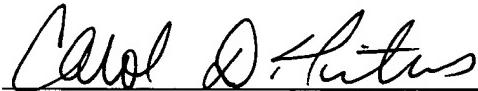
- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (512) 273-8300.

Date_____
Signature_____
Typed or printed name of person signing certificate

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NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

October 5, 2009

Date

CAROL D. TITUS

Typed or printed name

38436

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Applicant respectfully submits that the application was inappropriately abandoned. The response filed by Applicant on October 21, 2008 was a non-final amendment. A Notice of Non-Compliant Amendment was mailed on June 4, 2009. Since the Applicant's response was non-final, the time period for reply to the Notice should have been extendable under 1.136(a). This option to extend the deadline was also noted by the Examiner on Page 3, Paragraph 6 of the Notice of Non-Compliant Amendment.

As such, Applicant respectfully requests that the holding of abandonment be withdrawn and the associated petition fee be refunded.

(Please attach additional sheets if additional space is needed.)